



## Broadcasting Decision CRTC 2010-617

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Route reference: 2010-141

Ottawa, 25 August 2010

**Canwest Television GP Inc. (the general partner) and Canwest Media Inc. (the limited partner), carrying on business as Canwest Television Limited Partnership, and TVA Group Inc., partners in a general partnership carrying on business as Mystery Partnership**

**Canwest Television GP Inc. (the general partner) and Canwest Media Inc. (the limited partner), carrying on business as Canwest Television Limited Partnership, and Rogers Communications Inc., partners in a general partnership carrying on business as TVtropolis General Partnership**

**Food Network Canada Inc., HGTV Canada Inc., History Television Inc., Showcase Television Inc., Discovery Health Channel Canada ULC and Life Network Inc.**

Across Canada

*Applications 2010-0054-6, 2010-0055-4, 2010-0056-2, 2010-0057-0, 2010-0058-8, 2010-0059-6, 2010-0060-4 and 2010-0066-1, received 19 January 2010*

### Licence amendments

1. The Commission **approves** the applications by the above-noted licensees to amend the broadcasting licences for the Category 1 and analog specialty television programming undertakings Mystery TV, TVtropolis, Food Network Canada, HGTV Canada, History Television, The Independent Film Channel, Discovery Health Channel and Slice respectively in order to add to the list of program categories from which they may draw, to remove limitations on certain program categories and, where appropriate, to add the standard limitations set out in *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy, Broadcasting Public Notice CRTC 2008-100, 30 October 2008* (the regulatory framework). The amended nature of service **conditions of licence** for each service are set out in the appendices to this decision.
2. The applicants stated that the intent of the applications was to provide the services with additional programming flexibility, consistent with the Commission's policy set out in the regulatory framework.
3. The Commission received an intervention in support of the application relating to Food Network Canada, as well as interventions opposing or commenting on the

remaining applications. The interventions and the applicants' reply can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

4. The interveners generally raised concerns about the possibility of programming being recycled across these specialty services and their nature of service definitions being diluted as a result of the proposed amendments, as well as the possibility of their becoming competitive with other Category 1 or analog specialty services. The Alliance of Canadian Cinema, Television and Radio Artists, the Writers Guild of Canada (WGC) and the Canadian Film and Television Production Association (CFTPA) also raised concerns about the lack of commitments relating to the production and airing of Canadian programs. The WGC and the CFTPA argued that these applications should be dealt with at licence renewal.
5. In their reply, the applicants noted that the applications were submitted nearly 15 months after the issuance of the regulatory framework and after other broadcasters had also applied for similar amendments. They argued that it would be unreasonable to expect licensees to delay seeking such amendments until licence renewal given that section 9(c) of the *Broadcasting Act* allows for these types of applications and given that the applications were consistent with the Commission's policy in Broadcasting Public Notice 2008-100. Specifically, they indicated that the concerns raised by interveners relating to genre exclusivity and the appropriateness of certain program categories were already dealt with in that policy, while those relating to the lack of Canadian programming commitments and the recycling of programming fell outside the scope of that policy and the applications.
6. The Commission notes that these applications were submitted pursuant to the regulatory framework. The Commission has taken into consideration the comments from interveners in assessing these applications. However, the Commission finds that the applications are consistent with the policy announced in the regulatory framework. Specifically, in that policy, the Commission concluded that in most instances the narrative descriptions of Category A services (presently known as Category 1 and analog pay and specialty services) are sufficiently specific to ensure that these services remain true to the genre for which they were licensed. Therefore, to provide these services with greater flexibility, the Commission determined that it would permit all Category A services to draw programming from all program categories, subject to a standard limitation of 10% of the broadcast month for certain categories to prevent such services from morphing into other established programming genres and thus becoming directly competitive with other Category A services.

Secretary General

*\*This decision and the appropriate appendix are to be attached to each licence.*

# Appendix 1 to Broadcasting Decision CRTC 2010-617

## Nature of service condition of licence for Mystery TV

1. a) The licensee shall provide a national English-language Category 1 specialty television service devoted to mystery and suspense programming. The service will nurture and encourage short-form Canadian mysteries. It will provide a wide assortment of genre-specific programs including movies, television series, short films and documentaries that will focus exclusively on the delivery of entertaining programming on suspense, espionage and classic mysteries.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) The licensee shall devote no more than 15% of the programming broadcast during each broadcast week to programming drawn from category 7(f) Programs of comedy sketches, improvisations, unscripted works, stand-up comedy.
- d) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports; and
  - 8(b) and (c) combined – Music video clips and Music video programs.

## Appendix 2 to Broadcasting Decision CRTC 2010-617

### Nature of service condition of licence for TVtropolis

1. a) The licensee shall provide a national, English-language specialty television service consisting of programs of particular interest to adults over 50 years of age.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) The television series in categories 7(a) Ongoing dramatic series, 7(b) Ongoing comedy series (sitcoms), 7(c) Specials, mini-series or made-for-TV feature films and 7(f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy broadcast by the licensee shall have been copyrighted at least ten years prior to the broadcast year in which they are aired by the service.
- d) The feature films in category 7(d) Theatrical feature films aired on TV broadcast by the licensee shall have been copyrighted at least 25 years prior to the broadcast year in which they are aired by the service.
- e) The licensee shall not broadcast live coverage of sporting events
- f) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports; and
  - 8(b) and (c) combined – Music video clips and Music video programs.

## Appendix 3 to Broadcasting Decision CRTC 2010-617

### Nature of service condition of licence for Food Network Canada

1. a) The licensee shall provide a national, English-language specialty programming service that is dedicated solely to the broadcast of entertaining, informational and instructional programming about food and nutrition, specifically related to: (i) the culture of food, (ii) food selection and preparation and cooking instruction and (iii) presentation and entertaining.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports;
  - 7 Drama and comedy; and
  - 8(b) and (c) combined – Music video clips and Music video programs.

## Appendix 4 to Broadcasting Decision CRTC 2010-617

### Nature of service condition of licence for HGTV Canada

1. a) The licensee shall provide a national, English-language specialty television service, providing advice and instruction about homes and gardens. The licensee shall also provide Canadian game shows and Canadian dramas that have been commissioned by the licensee and which have building and remodelling, decorating and interior design, gardening and landscaping or crafts and hobbies as themes.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports;
  - 7 Drama and comedy; and
  - 8(b) and (c) combined – Music video clips and Music video programs.

## Appendix 5 to Broadcasting Decision CRTC 2010-617

### Nature of service condition of licence for History Television

1. a) The licensee shall provide a national English-language specialty service consisting of historical documentaries, movies, mini-series and history programs which embrace both current events and past history, with a special emphasis on documentary and dramatic programs related to Canada's past.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) During each broadcast week, the licensee shall not broadcast more than 56 hours of feature films, all of which are to be based on historical themes.
- d) The licensee shall not broadcast more than one two-hour movie during the evening broadcast period.
- e) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports; and
  - 8(b) and (c) combined – Music video clips and Music video programs.

## Appendix 6 to Broadcasting Decision CRTC 2010-617

### Nature of service condition of licence for The Independent Film Channel

1. a) The licensee shall provide a national English-language Category 1 specialty television service consisting of dramatic and non-fiction short and feature-length independent films and programs focusing on the independent film-making process, film makers and film festivals.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) No more than 25% of all programming broadcast during each broadcast week shall be drawn from category 2(b) Long-form documentary.
- d) No more than 60% of all programming broadcast during each broadcast week shall be drawn from category 7(d) Theatrical feature films aired on TV.
- e) All material drawn from category 7(d) shall be independent films and shall be broadcast only after their pay television broadcast window has ended.
- f) No more than 5% of all films broadcast shall be produced, financed or distributed from a major Hollywood studio.
- g) No more than 10% of all foreign programming shall be supplied by the U.S.-based Independent Film Channel.
- h) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports;
  - 7 (a), (b) and (f) combined – Ongoing dramatic series, Ongoing comedy series (sitcoms) and Programs of comedy sketches, improvisations, unscripted works, stand-up; and
  - 8(b) and (c) combined – Music video clips and Music video programs.

## Appendix 7 to Broadcasting Decision CRTC 2010-617

### Nature of service condition of licence for Discovery Health Channel

1. a) The licensee shall provide a national English-language Category 1 specialty television service devoted entirely to useful, practical, reliable and entertaining programming related to health, wellness and medicine.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports;
  - 7 Drama and comedy; and
  - 8(b) and (c) combined – Music video clips and Music video programs.

## Appendix 8 to Broadcasting Decision CRTC 2010-617

### Nature of service condition of licence for Slice

1. a) The licensee shall offer a national English-language lifestyle specialty programming undertaking consisting primarily of useful, reliable and entertaining information and documentary programming.
- b) The licensee may draw programming from all the categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time.
- c) The licensee will devote not more than 10% of the broadcast month to any of the following categories:
  - 6(a) Professional sports;
  - 7 Drama and comedy; and
  - 8(b) and (c) combined – Music video clips and Music video programs.